

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PAUL SUTHERLAND PHOTOGRAPHY, LLC.

ANSWER TO CROSS-CLAIM

Plaintiff,

-against-

Docket: 07 CIV 3748
Hon. Jed S. Rakaoff

THE MCGRAW HILL COMPANIES and DR.
LEWIS KOHL

Defendants.

-----X

ANSWER TO CROSS-CLAIM OF THE MCGRAW HILL COMPANIES

Defendant, Dr. Lewis Kohl, by his attorneys, Kuczinski, Vila & Associates, LLP., for its Answer to Cross-Claim of The McGraw Hill Companies:

1. Denies the allegations contained in Paragraph #1 of the Cross-Claim.
2. Co-Defendant, The McGraw Hill Companies is not entitled to any of the relief requested in this Cross-Claim as against defendant, Dr. Lewis Kohl.

AFFIRMATIVE AND OTHER DEFENSES

3. The Cross-Claim (and each Claim therein) fails to state a claim or cause of action on which relief can be granted.
4. The Cross-Claim (and each Claim therein) is barred, in whole or in part, by unclean hands, estoppel, waiver, license, implied consent, ratification and/or acquiescence.
5. The Cross-Claim (and each Claim therein) is barred by Cross-Claimant's copyright infringement, breach of contract, agreement, release and/or license, with defendant, Dr. Lewis Kohl and/or with the plaintiff Paul Sutherland Photography, LLC.


WHEREFORE, defendant Dr. Lewis Kohl demands judgment that

- A. the Cross-Claim be dismissed with prejudice;

- B. Dr. Lewis Kohl be awarded from co-defendant The McGraw Hill Companies all judgments, damages, losses and expenses it incurs arising out of or in connection with the claims in this action; and
- C. Dr. Lewis Kohl be awarded from co-defendant The McGraw Hill Companies his full costs, including reasonable attorney's fees, and be granted such other relief as the Court may deem just and proper.

Dated: Tarrytown, New York
July 25, 2007

Yours, etc.,



Gustavo L. Vila (GV0436)
KUCZINSKI, VILA & ASSOCIATES, LLP
Attorneys for Defendant
DR. LEWIS KOHL
220 White Plains Road, 2nd Floor
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(914) 347-7333

TO:

COWAN LIEBOWITZ & LATMAN, P.C.
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The McGraw Hill Companies, Inc.
1133 Avenue of the Americas
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EDWARD C. GREENBURG, P.C. (ECG 553)
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STATE OF NEW YORK, COUNTY OF NEW YORK ss.:

AFFIDAVIT OF SERVICE BY MAIL

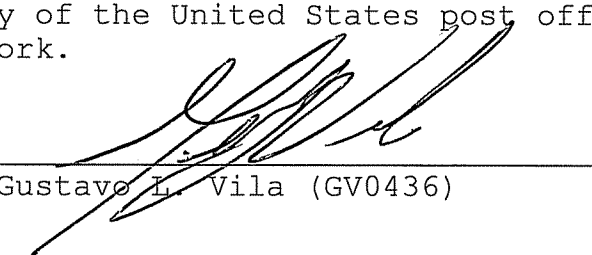
Gustavo L. Vila, being duly sworn, deposes and says that deponent is a member of the firm of Kuczinski, Vila & Associates, LLP., the attorneys for Dr. Lewis Kohl, is over the age of eighteen and is not a party to this action.

On July 26, 2007, deponent served the within Answer to Cross-Claim upon:

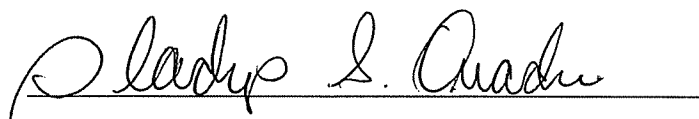
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the addresses designated by said attorneys for that purpose by depositing a true copy of same enclosed in a postpaid properly addressed wrapper in - a post office - official depository under the exclusive care and custody of the United States post office department within the State of New York.


Gustavo L. Vila (GV0436)

Sworn to before me
this 26 Day of July 2007



GLADYS S. OVADIA
Notary Public, State of New York
No. 01OV5062843
Qualified in Rockland County
Commission Expires July 8, 2010

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ANSWER TO CROSS-CLAIM

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CERTIFICATION PURSUANT TO 22 N.Y.C.R.R. §130-1.1a

Gustavo L. Vila, Esq. hereby certifies that, pursuant to 22 N.Y.C.R.R. §130-1.1a, the foregoing Answer to Cross-Claim is not frivolous nor frivolously presented.

Dated: Tarrytown, New York
July 25, 2007


Gustavo L. Vila (GV0436)

PLEASE TAKE NOTICE

- ☐ that the within is a true copy of a entered in the office of the clerk of the within named Court on .
- ☐ that a of which the within is a true copy will be presented for settlement to the Hon. one of the judges of the within named Court at , on at 9:30 a.m.

Kuczinski, Vila & Associates, LLP.
Attorneys for Defendant
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GLV/cmp